Supreme Court, U.S.
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NO._____

In The

Supreme Court of the United States

Nick A. Kolev, PhD, P.E.(In Pro Se)

Petitioner

v.

Department Of Homeland Security,BCIS, California et al

Respondents

Represented by: Sharla Lee Cerra SB#187176

On Petition for Writ of Certiorari
To The United States Court of Appeal
For The Ninth Circuit No.04-56137

PETITION FOR WRIT OF CERTIORARI

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I. QUESTIONS PRESENTED FOR REVIEW

"IN THE TIME OF UNIVERSAL DECEIT TELLING THE TRUTH IS A REVOLUTIONARY ACT "G. Orwell

Jewish Ritual Murder of Russian US Marine LcPl Y.Y. Pletnikov in Okinawa 1998 and following cover up, presented indirectly for this case the following challenges:

1/Whether a service of process(official/personal capacity) on Director of Gov. Agency(NOT OPEN TO THE PUBLIC) should be perfected on Defendant, on His Gov. Counsel or His Attorney? when all three refuse service of process. Ultimate authority in Service of Process.

2/. Whether a Civil Rights case could be dismissed on Personal Jurisdiction F.R.C.P.12(b)(2)before expiration of statutory limit.

3/ Whether US Attorney could represent Gov. Defendant ONLY in his official capacity. Who represents him in personal capacity?

4/Whether a Civil Rights case-Fundamental Right to marry could be decided without Oral Argument and Trial by Jury.

5/ Whether exhaustion of Administrative procedure is covered after 6 months waiting for purpose of FTCA 28 U.S.C.A. §2675 when no administrative procedure available.

6/ Whether Visa Consular Officer could challenge US Attorney General decision on K-1 Fiancée visa and if so who has the ultimate authority?

7/ Whether Consular Investigation of Private life of US Citizen in matter unrelated to K-1 visa is "Ultra Virus", or covered by Consular immunity.

8/ Whether a "Prima Facie" Discrimination of US Citizen by Consular Officer in K-1 Fiancée Visa Process is covered by Civil Rights Law, or by Consular Immunity-no remedy.

CORPORATE STATEMENT

The undersigned, Mr. NICK A. KOLEV, PhD, P.E.(party appearing in pro per), certifies that the following listed party (or parties) has (have) a direct, pecuniary interest in the outcome of this case.

PARTY.: Judges: G. Lewis-Trial; F.Horn-Presiding; J.Watson-Supervising CONNECTION: OC Superior Court, CA Legal Malpractice **Case: 02CC06912** ; **Justices:** W. Rylaarsdam; D. Sills, Fybell-CA 4th Appellate District; Div. 3 - Judicial Corruption **Case G032337**; US Supreme Court **Case No. 04-1042** from April 18th, 2005.

Attorneys:T. Prescott CA.,SB. 123530-Divorce Attorney for N. Kolev; Legal Malpractice; **Bridgman &Associates** Divorce Attorneys for G. Kolev; Attorney **Vickie Bridgman** SB 138225 - DA Office OC, CA **Law Firm "Hollins&Fields"** -T. Prescott Attorneys in Legal Malpractice; **Law Firm Hollins &Schechtman** Employers of Judge G. Lewis son.

PARTY.: Judge: A.M.Luna-Trial; Judge Patty J. McKay-Traffic Appeal: ;**CONNECTION**: L.A.County Superior Court,CA Traffic **Cases: BR043843; A505602;**

PARTY: US Naval Investigative Services: Mr. Ron Casey; Mr. Edward Kunigonis; Mr. Michael Devine; **CONNECTION:** Death of Russian US Marine Y. Y. Pletnikov investigation.

PARTY IN THIS CASE: State Department Legal Advisors: Gordon Dickey; Geoffrey Gorsky; Legal Counsel for Department of Homeland Security.

PARTY ABROAD: Russian Embassy in Washington, DC., Dioceses of Russian, Ukrainian, Belarus Orthodox Churches in Europe and US. **CONNECTION:** Jewish Ritual Murder of Russian Orthodox US Marine Y.Y. Pletnikov - possible canonization.

II. LIST OF ALL PARTIES TO THE APPEAL PROCEEDING US COURT OF APPEAL, NINTH CIRCUIT, (No. 04-56137)

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10720 LAKEWOOD BLVD. # 340
DOWNEY, CA, 90241-3598

Plaintiff

V.

1/. Attn. Mr. Donald Newfield
BCIS-CALIFORNIA SERVICE CENTER-
24000 Avila Rd., Second Floor, Room 2302,
Laguna Niguel CA, 92677,
Phone: 800-375-5283

2/. Attn. Mr. David Tyler
DEPT OF STATE-NATIONAL VISA CENTER
32 Rochester Ave., Portsmouth, NH , 03801-2909
Phone: 603-334-0700

3/. Attn. Mr. James Pettit, Consular Services
US Embassy / -Consular Section,
21, Novinskiy Boulvar
Moscow, 123242, RUSSIA
Phone: 011-7-095-728-5000

Defendants

LEGAL COUNSEL FOR ALL DEFENDANTS:
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PETITION FOR WRIT OF CERTIORARI

I. OPINIONS BELOW

Nick A. Kolev, PhD P.E., Plaintiff and Petitioner, respectfully petitions for **WRIT of CERTIORARI** from Order of US Court of Appeal(unreported), Ninth Circuit June 20th, 2005. (See P. Ax. 1) from Civil Rights Case disposed by US DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA On April 28th, 2004 No.:CV-03-07894-LGB(RCx) (See P. Ax. 5),

Petition for Oral Argument" to US Ninth Circuit Court of Appeals according to criteria set up in Fed. Rule Ap. Pr. 35(b) denied on April 29th 06th, 2005, (See P. Ax. 5), Motion for New Trial to US District Court, Central District of California-Los Angeles under Fed. Rule Cil. Pr. 59(b)disposed on June 1st ,2004 .

According to US SC Rule 13.(1), the **Petition is timely if within 90 days from June 20th,2005** (See P. Ax. 5),

II. JURISDICTION

US Supreme Court has original Jurisdiction under US Constitution Article III, § 2 to All Cases in Law and Equity.

The Justiciable Dispute involves validity of 28 U.S.C. § 1654 "In Pro Se" rights in all Courts, Fair and Due process under State (Cal. Constitution Article I, §§ 7,15) and Federal Law (US Constitution Amendments I, V, XIV) when Challenged US District Court Justice L.G. ignored Petitioner Recuse pleadings, and Us Attorney S. Cerra showed in case without any authority AND CLOSED IT.

III. CONSTITUTIONAL AND STATUTARY PROVISIONS INVOLVED

U.S.C.A Title 28 § 2675. Disposition by federal agency as prerequisite; evidence a) An action shall not be instituted upon a claim against United States for money damages for injury or loss of property personal injury or death caused by the negligent or wrongful act omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim **within six months after it is filed** shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section

USC Title 8 § 1184. Admission of nonimmigrants(d) Issuance of visa to fiancée or fiancé of citizen

A visa shall not be issued under the provisions of section 1101(a)(15)(K) of this title until the consular officer has received a petition *(N.K.-has to have it, but could not establish his own criteria, or challenge AG on it issuance)* filed in the United States by the fiancée or fiancé of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. **It shall be approved only *(N.K.-The Petition, not the Visa)*** after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of

filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person. In the event the marriage with the petitioner does not occur within three months after the admission of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be removed in accordance with sections 1229a and 1231 of this title .

CFR 22, Ch 1, § 40.6 Basis for refusal.

A visa can be refused only upon a ground specifically set out in the law or implementing regulations. The term "reason to believe", as used in INA 221(g) shall be considered to require a determination based upon **facts or circumstances which would lead a reasonable person to conclude that the applicant is ineligible to receive a visa as provided in the INA** and as implemented by the regulations. Consideration shall be given to any evidence submitted indicating that the ground for a prior refusal of a visa may no longer exist.

CFR 22, Ch 1, § 40.201(a) types of failure to comply with INA:

(1) The applicant fails to furnish information as required by law or regulations;(2) The application contains a false or incorrect statement other than one which would constitute a ground of ineligibility under INA 212(a)(6)(C);(3) The application is not supported by the documents required by law or regulations;(4) The applicant refuses to be fingerprinted as required by regulations; (5) The necessary fee is not paid for the

issuance of the visa or, in the case of an immigrant visa, for the application therefore; (6) In the case of an immigrant visa application, the alien fails to swear to or affirm, the application before the consular officer; or(7) The application otherwise fails to meet specific requirements of law or regulations for reasons for which the alien is responsible.

USC Title 8 § 1103. Powers and duties(a) Attorney General

(1) The Attorney General shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens,.. determination and ruling by the Attorney General with respect to all questions of law shall be controlling.(2) He shall have control, direction, and supervision of all employees and of all the files and records of the Service

USC Title 8 § 1104. Powers and duties of Secretary of State

(a)Powers and duties .The Secretary of State shall be charged ... except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas;

IV. STATEMENT OF THE CASE

This case was filed as Biven's action for violation right to marry on 10/30/03 demanding $10,000 material loss and $40,000 emotional distress. Cover sheet was improperly marked as suit against US, when it is Federal Question. Later FAC included official capacity charges. Defendant counsel is arguing with herself about Kolev lack of standing to claim visa for third party, stating K-1 approval on 01/06/04 made the case moot. Kolev never pleaded his charges as visa case, because two of